



HOUSE BILL 1070: Town of Duck/Eminent Domain

2013-2014 General Assembly

Committee: House Finance
Introduced by: Rep. Tine
Analysis of: First Edition

Date: June 19, 2014
Prepared by: Greg Roney
Committee Counsel

SUMMARY: *House Bill 1070 would permit the Town of Duck to use eminent domain for the purpose of engaging in beach erosion control and flood and hurricane protection works.*

[As introduced, this bill was identical to S788, as introduced by Sen. Cook, which is currently in Senate Ref to State and Local Government. If fav, re-ref to Finance.]

CURRENT LAW: Under current law, cities and counties may use the power of eminent domain for the purposes listed in G.S. 40A-3(b), such as constructing city streets, building water and sewer lines, establishing parks, etc.

G.S. 40A-3(b1) provides the following two additional purposes for which certain counties and municipalities may use the power of eminent domain through a "quick-take" condemnation:

- Engaging in or participating with other governmental entities in acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.
- Establishing access for the public to public trust beaches and appurtenant parking areas.

G.S. 40A-3(b1) currently applies only to Carteret and Dare Counties, the Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, and the Village of Bald Head Island.

If one of these counties or municipalities engages in a quick-take condemnation pursuant to G.S. 40A-3(b1), it must abide by the procedures of Article 3 of Chapter 40A, which states that the public condemnor must file a civil action to condemn the property in the superior court in which the land is located and must provide a deposit in the amount estimated by the condemnor to be just compensation for the taking. G.S. 40A-41; 40A-42(a)(2). Compensation is generally the fair market value (FMV) of the property. In the case of a taking of less than an entire tract, compensation is usually the greater of (i) the diminution on value, or (ii) the FMV of the property taken. G.S. 40A-64. The condemnor has the right to immediate possession when the complaint is filed.

BILL ANALYSIS: The bill would add the Town of Duck to the list of counties and municipalities that may utilize quick-take condemnation for the purpose of engaging in beach erosion control and flood and hurricane protection works.

EFFECTIVE DATE: This act is effective when it becomes law.

Shelly DeAdder with the Research Division substantially contributed to this summary.

